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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,608

11/12/2003

Jom Maeritz

10808/111

5868

48581

7590

02/06/2006

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EXAMINER

WALLING, MEAGAN S

ART UNIT PAPER NUMBER

2863

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

all

Office Action Summary	Application No. 10/706,608	Applicant(s) MAERITZ, JORN	
	Examiner Meagan S. Walling	Art Unit 2863	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 16 November 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) 13-16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 June 2004 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 - 1. Certified copies of the priority documents have been received.
 - 2. Certified copies of the priority documents have been received in Application No. _____.
 - 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-12 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Whitefield et al. (US 6,512,985).

Regarding claim 1, Whitefield et al. teaches performing an analysis using values of at least one process parameter of a manufacturing process of a plurality of physical objects (column 1, lines 27-30); determining that at least one physical object of the plurality of physical objects does not satisfy a prescribed selection criterion (column 1, lines 45-49); marking the at least one physical object in such a way that the at least one marked physical object must be sent for a special measurement (column 1, lines 62-64); and removing the at least one marked physical object from the manufacturing process (column 1, lines 64-66).

Regarding claim 2, Whitefield et al. teaches that the physical object is a wafer (column 1, line 21).

Regarding claim 3, Whitefield et al. teaches that the analysis is a statistical analysis (column 1, lines 39-40).

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Regarding claim 4, Whitefield et al. teaches that the values of the at least one process parameter are measured when the plurality of physical objects is being manufactured (column 1, lines 11-13).

Regarding claim 5, Whitefield et al. teaches sending the at least one marked physical object for a special measurement (column 1, lines 64-66).

Regarding claim 6, Whitefield et al. teaches that the special measurement is a measurement for checking the quality of the at least one marked physical object (column 1, lines 64-66).

Regarding claim 7, Whitefield et al. teaches continuing the manufacturing process for any of the plurality of physical objects not marked as failing the prescribed selection criterion (see Ref. 22).

Regarding claim 8, Whitefield et al. teaches that the selection criterion is a quality characteristic of the manufacturing process (column 1, lines 16-20).

Regarding claim 9, Whitefield et al. teaches that the selection criterion is not satisfied if a value of the at least one process parameter goes above or below a prescribed limit value (column 1, lines 50-55).

Regarding claim 10, Whitefield et al. teaches performing an analysis using values of at least one process parameter of the manufacturing process of the plurality of physical objects (column 1, lines 27-30); marking at least one physical object when, as a result of the analysis, the at least one physical object does not satisfy a prescribed selection criterion (column 1, lines 62-64); removing the at least one marked physical object from the manufacturing process (column

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1, lines 64-66); and sending the at least one marked physical object for special treatments (column 1, lines 64-66).

Regarding claim 11, Whitefield et al. teaches performing analysis using values of at least one process parameter of the manufacturing process of the plurality of physical objects (column 1, lines 27-30); marking at least one physical object when, as a result of the analysis, the at least one physical object does not satisfy a prescribed selection criterion (column 1, lines 62-64); removing the at least one marked physical object from the manufacturing process (column 1, lines 64-66); and sending the at least one marked physical object for special treatments (column 1, lines 64-66).

Regarding claim 12, Whitefield et al. teaches performing analysis using values of at least one process parameter of the manufacturing process of the plurality of physical objects (column 1, lines 27-30); marking at least one physical object when, as a result of the analysis, the at least one physical object does not satisfy a prescribed selection criterion (column 1, lines 62-64); removing the at least one marked physical object from the manufacturing process (column 1, lines 64-66); and sending the at least one marked physical object for special treatments (column 1, lines 64-66).

Allowable Subject Matter

Claims 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of allowability of claims 13-16 is the inclusion of the limitation of preventing values associated with the at least one marked physical object from affecting an average product quality of the plurality of physical objects. It is this limitation in the claimed combination that has not been found, taught, or suggested by the prior art that makes these claims allowable.

Response to Arguments

Applicant's arguments filed 11/16/05 have been fully considered but they are not persuasive.

In response to applicant's arguments, the recitation "automatically, without human intervention" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan S. Walling whose telephone number is (571) 272-2283. The examiner can normally be reached on Monday through Friday 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msw

BRYAN BUI
PRIMARY EXAMINER

